

# **EXHIBIT A**

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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FIRST CONSULTING GROUPS, INC., et al.)

)  
) No. 07 CV 6577  
)

Plaintiff s, )

vs. )

) Chicago, Illinois  
)

FCG CSI, INC., et al., )

) April 8, 2008  
)

Defendants. )

) 12:18 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JAMES B. ZAGEL

For the Plaintiffs:

LATHAM & WATKINS, L.L.P.  
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12:18PM 1 THE COURT: 07 C 6577, First Consulting Group versus  
12:18PM 2 FCG CSI.

12:18PM 3 MS. HOLMES: Hello, your Honor.

12:18PM 4 Lori Holmes on behalf of the defendants.

12:18PM 5 MR. HOLLISTER: Good afternoon, your Honor.

12:18PM 6 Hudson Hollister and Tim Hardwicke on behalf of the  
12:18PM 7 plaintiffs.

12:18PM 8 MR. HARDWICKE: Good afternoon, your Honor.

12:18PM 9 THE COURT: We're here because I wanted a highlighted  
12:18PM 10 version of the complaint, which I have received and looked at.

12:18PM 11 MS. HOLMES: Could I just make one comment about the  
12:18PM 12 highlighted version of the complaint?

18PM 13 THE COURT: Yes.

12:18PM 14 MS. HOLMES: I understood that what you wanted was  
12:18PM 15 the fact that we had a red-line version showing all the stuff  
12:18PM 16 they added and they changed.

12:18PM 17 THE COURT: Right.

12:18PM 18 MS. HOLMES: What they gave you was their version of  
12:18PM 19 the substantive changes; however, that did not highlight  
12:18PM 20 everything that was changed starting from the first paragraph  
12:18PM 21 on. And I have a copy of the complaint they originally filed  
12:18PM 22 and you could look at it and see how different the first  
12:18PM 23 paragraph is, even.

12:18PM 24 THE COURT: The short answer is, additional  
19PM 25 defendants are fine. I think your opponent is correct in one

12:19PM 1 respect: there's an awful lot here for them to specifically  
12:19PM 2 respond to, and some of it that is enlightening is the  
12:19PM 3 context. For example, unlike the case with many complaints, I  
12:19PM 4 believe I actually understand what this case is about, which  
12:19PM 5 is the advantage of fact pleading as opposed to noticed  
12:19PM 6 pleading.

12:19PM 7 But your opponent does have a point about the burden  
12:19PM 8 of answering this particular one. So on the basic point of  
12:20PM 9 objection, I am overruling the objection to naming new  
12:20PM 10 defendants, and I'm going to give you a chance to amend this  
12:20PM 11 one down to something more suitable to noticed pleading.

12:20PM 12 MR. HOLLISTER: That's fine, your Honor. I  
20PM 13 appreciate that.

12:20PM 14 THE COURT: Otherwise, I see this is probably a no  
12:20PM 15 harm, no foul situation because you have basically told  
12:20PM 16 opposing counsel what the case is about, and that, I think, is  
12:20PM 17 a benefit to everybody.

12:20PM 18 MR. HOLLISTER: If I may, your Honor. With the  
12:20PM 19 proposed amended complaint, there's a couple of things. It  
12:20PM 20 adds a couple of new defendants, as your Honor has said.

12:20PM 21 THE COURT: Yes.

12:20PM 22 MR. HOLLISTER: It also adds several new claims  
12:20PM 23 against existing defendants.

12:20PM 24 THE COURT: And I don't have a problem with that, but  
20PM 25 the thing is there's stuff here, which I'm sure you

12:20PM 1 understand, is a pain in the neck for them to respond to and  
12:20PM 2 it's a fact some of which they may or may not know is true.  
12:20PM 3 It looks more like the kind of thing where you're going to  
12:21PM 4 have to do the same kind of research you do with a request for  
12:21PM 5 admission, which is a little burdensome. So I don't think it  
12:21PM 6 would be much on you to trim this one down.

12:21PM 7 MR. HOLLISTER: That's fine, your Honor.

12:21PM 8 THE COURT: Otherwise, the filing is probably useful  
12:21PM 9 to the disposition of the case.

12:21PM 10 MR. HOLLISTER: That's correct, your Honor. And I  
12:21PM 11 guess, just to be clear, we're going to file a complaint that  
12:21PM 12 would contain the same counts to the same individuals.

21PM 13 THE COURT: Yes, you can add the same counts.

12:21PM 14 MR. HOLLISTER: That is allowed.

12:21PM 15 THE COURT: That's allowed.

12:21PM 16 MR. HOLLISTER: Okay. And we'll do that within a  
12:21PM 17 week, your Honor, depending on our calendar.

12:21PM 18 THE COURT: All right.

12:21PM 19 MR. HOLLISTER: Your Honor also entered a scheduling  
12:21PM 20 order, we don't need to revisit that now, but that scheduling  
12:21PM 21 order was based on the agreement that was reached before these  
12:21PM 22 new facts came to light. Counsel, as you will recall,  
12:21PM 23 requested your Honor to enter that order with the amended  
12:21PM 24 complaint in hand and your Honor did enter that order. I  
21PM 25 would expect that if counsel wants more time, we may revisit

12:21PM 1 that order --

12:21PM 2 THE COURT: Wait. Wait.

12:22PM 3 Do you care?

12:22PM 4 MS. HOLMES: We want this case to go on as scheduled.

12:22PM 5 THE COURT: That's fine; and then we don't have to  
12:22PM 6 change any of that.

12:22PM 7 MR. HOLLISTER: The only other question then, your  
12:22PM 8 Honor, is based on the facts we then knew, we allowed by  
12:22PM 9 agreement the parties to take twelve depositions. Based on  
12:22PM 10 the facts that have come to light since then that is now an  
12:22PM 11 order, we request that it be extended to allow the parties to  
12:22PM 12 have twenty depositions each.

12:22PM 13 MS. HOLMES: We oppose that. You have 30(b)(6)'s  
12:22PM 14 listed which also representatives from the same hospital, we  
12:22PM 15 don't understand the difference between the two.

12:22PM 16 THE COURT: Okay, there's an easy solution to this.  
12:22PM 17 See how well you do with twelve, if you can tell me why you  
12:22PM 18 need more, the chances of my refusing it are close to zero.  
12:22PM 19 And I found, generally speaking, that estimates of how many  
12:22PM 20 depositions you need in advance are, more often than not,  
12:22PM 21 wrong. Now, in many cases they're wrong in both directions;  
12:23PM 22 too few and too many.

12:23PM 23 MR. HOLLISTER: Your Honor, if I may. I think we got  
12:23PM 24 fifteen between. We got five customers we've identified,  
23PM 25 we've got five defendants at this point, and we've got, at

12:23PM 1 least by counsel's own admission, six hired employees.

12:23PM 2 THE COURT: How many 30(b)(6)'s have you done?

12:23PM 3 MR. HARDWICKE: Six.

12:23PM 4 THE COURT: See how you do with them first.

12:23PM 5 MR. HOLLISTER: If I may. I have fifteen by  
12:23PM 6 agreement at this point, Judge, by order, and I think we need  
12:23PM 7 twenty. I think my numbers --

12:23PM 8 THE COURT: There is a chance that you'll come in  
12:23PM 9 here with like a sheepish expression on your face and say --

12:23PM 10 MS. HOLMES: You need two.

12:23PM 11 THE COURT: See what you do with twelve. Believe me  
12:23PM 12 --

12:23PM 13 MR. HOLLISTER: Judge, I have no interest in taking  
12:23PM 14 one more --

12:23PM 15 THE COURT: Believe me, I'm not going to close the  
12:23PM 16 door on you in any arbitrary way.

12:23PM 17 MR. HOLLISTER: May I ask one other --

12:23PM 18 THE COURT: Go ahead.

12:23PM 19 MR. HOLLISTER: We noticed both CIO's as well as  
12:24PM 20 30(b)(6)'s from the customers, so we don't know who the  
12:24PM 21 customer is going to identify. If those are counted one  
12:24PM 22 deposition, as I suspect they will be, and, frankly, we  
12:24PM 23 probably will need --

12:24PM 24 THE COURT: I'm not particularly harsh or arbitrary  
24PM 25 on discovery, and I'm generally known as a soft pudg on time,

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1 as well.

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2 MR. HOLLISTER: Okay, Judge. I know those things  
3 about you and I appreciate it.

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4 THE COURT: Okay.

12:24PM

5 MS. HOLMES: One more thing. Is what they're  
6 supposed to do is take their first complaint and then add the  
7 defendants and then just add what they need to add?

12:24PM

8 THE COURT: Your classic skeleton noticed pleading,  
9 but you'll have this document which I persist in believing  
10 will help the planning of this case.

12:24PM

11 MS. HOLMES: Okay.

12:24PM

12 THE COURT: So which is why I'm a big believer in  
13 fact pleading, but we're not there.

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14 MS. HOLMES: Thank you, your Honor.

15 MR. HOLLISTER: Thank you, your Honor.

16 THE COURT: Thanks, counsel.

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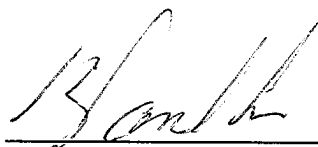
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1 I, BLANCA I. LARA, DO CERTIFY THAT THE FOREGOING IS A CORRECT  
2 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
3 ABOVE-ENTITLED MATTER.  
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9 Blanca I. Lara

4-10-08  
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